

REMARKS

Status of Claims

By way of the instant amendment, claims 3-4, 6-8, 11-12, 14-16, 19-20 and 22-23 have been canceled. Thus, claims 1, 2, 5, 9, 10, 13, 17, 18 and 21 remain for examination.

Prior Art Rejection

Claims 1, 3, 5, 7, 8, 11, 13, 15, 17, 19, and 21 stand rejected under 35 U.S.C. 102(b) as anticipated by Fado (6,016,136). Further, claims 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22 and 23 stand rejected under 35 U.S.C. 103 as unpatentable over Fado in view of Hetherington.

The Examiner's rejections are respectfully traversed.

By way of the instant amendment, applicant has amended independent claim 1 to include therein the recitations of claim 3, namely, the recitation that the sound volume level of the adjusted sound volume data is set to be equivalent to that of a sound volume of a system sound (error sound) generated by said operating system. Similar limitations have been added to all of applicant's independent claims. With regard to the Examiner's rejection of claim 3, the Examiner points to column 13, lines 17-21 of Fado which states as follows:

If no audio is detected after 5 seconds, GUI display 310 will be modified as shown in FIG. 29. The instruction section 314 instructs the user to seek Help or to restart the test. If audio is detected, but the tool is unable to properly adjust the audio, the user will be prompted to add or remove the signal adapter if the tool cannot adjust the volume to an acceptable level by adjusting the mixer volume level. The user will be instructed to add the signal adapter if the following conditions are true: the user selected a signal adapter on the gathering information step . and, the tool has lowered the mixer volume slider to the button 5% of the maximum range. The user will be instructed to remove the signal adapter if the following conditions are true: the registry in the application indicates that the user is currently using the signal adapter, and, the tool has raised the mixer volume slider to 100% of the maximum range.

As may be seen from the above, Fado does not disclose adjusting the sound volume data such that it is set to be equivalent to that of a sound volume of a system sound (error sound) generated by the operating system. As such, Fado does not anticipate applicant's invention and applicant's claim 1 is patentable thereover.

In order for a reference to anticipate a claim, the reference must disclose each and every limitation recited in the claim. This is certainly not the case here and thus the rejection under 35 U.S.C. 102 must be withdrawn.

Inasmuch as the above discussed limitation is present in all of applicant's independent claims, it is submitted that all of the remaining independent claims clearly differentiate applicant's invention over the prior art and are patentable thereover.

Moreover, the Hetherington reference applied in the section 103 rejection does not supply the ingredients missing from the Fado teaching. As such, the Patent and Trademark Office has not made out a prima facie case of obviousness under the provisions of 35 U.S.C. 103.


Conclusions

For the reasons indicated above, it is submitted that the application is now in condition for allowance and an early indication of same is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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